

REMARKS

In response to the Office Action mailed December 2, 2004, Applicants respectfully request reconsideration. To further the prosecution of this application, each of the rejections set forth in the Office Action has been carefully considered and is addressed below. The claims as presented are believed to be in allowable condition

Initially, the undersigned thanks Examiners Jacobs and Mekkee for their courtesies in granting and conducting a telephone interview on February 14, 2005. The substance of that telephone interview is summarized herein.

All of the claims of the present application stand rejected under 35 U.S.C. §103 as purportedly being obvious over Gopal in view of Judge. This rejection is respectfully traversed.

The arguments set forth in the prior response filed on August 23, 2004 are incorporated herein by reference.

The Combination of References Under §103 Is Improper

In the prior response, the independent claims were amended to include limitations that further define the nature of the context management administration recited in the claims, including configuring a subject data definition that is defined in accordance with the CCOW standard and comprises a patient subject, a user subject and an encounter subject. These limitations clearly distinguish over Gopal, which as discussed in the prior response is directed to a search tool for finding information among multiple directories. Although the term "context" is used therein, it is simply irrelevant to what is recited in Applicants' claims.

The Examiner clearly appreciated that Gopal does not disclose the newly added limitations, such that the rejection under §102 over Gopal is no longer maintained. However, the newest Office Action makes a §103 rejection over Gopal in view of Judge, with the Examiner apparently believing (incorrectly as discussed below) that Judge discloses the limitations added in the previous amendment. However, the Office Action fails to cite anything of record suggesting why one of skill in the art would have been motivated to modify Gopal based upon Judge in any way, and also fails to disclose what the Examiner believes the system would look like that one of skill in the art would have been led to based upon the teachings of these references. The sole support in the Office Action for modifying Gopal based upon Judge states:

“Given the teaching of Judge, it would have been obvious to one of skill in the art at the time the invention was made to modify Gopal by including a patient context interface in order to provide services to a plurality of application programs in a timely and efficient manner.” (Office Action, page 3).

It is respectfully asserted that this provides no proper basis for modifying Gopal based upon Judge, and does not even attempt to explain what system would have resulted from following the combined teachings of these references. In this respect, Judge is the only reference relied upon that teaches a sharing of context between applications. Thus, if one of skill in the art were motivated by Judge to implement a context sharing system, that skilled person would have implemented a system in the manner taught by Judge, and would not have incorporated some unspecified features of the Judge system into the totally unrelated system of Gopal.

In view of the foregoing, it is respectfully asserted that the Office Action fails to establish a proper basis for combining the teachings of Gopal and Judge, and further fails to establish a prima facie case of obviousness by failing to explain the nature of the system that would purportedly have resulted from following the combined teachings of these references. Therefore, it is respectfully asserted that the rejection of each of the pending claims under 35 U.S.C. §103 as purportedly being obvious over this combination of references is improper and should be withdrawn.

The Claims Patentably Distinguishing Over Any Combination of Gopal and Judge

While it is a bit difficult to respond to the rejection given that the Office Action does not explain the nature of the system configuration that the Examiner believes that one of skill in the art would have been led to based upon the combined teachings of the references, each of the independent claims clearly distinguishes over any combination of Gopal and Judge, because (at a minimum) Judge does not show all of the limitations added in the prior amendment. In this respect, the Office Action asserts that Judge discloses context management in accordance with the CCOW standard. This is not correct. There is simply no reference to CCOW in Judge, and the nature of the context management described therein does not comply with the CCOW standard. In addition, each of the independent claims recites a subject data definition including a plurality of subjects comprising a patient subject, a user subject and an encounter subject. Judge

does not mention context that includes either user information or encounter information, either at the location cited in the Office Action (col. 2, lines 4-15) or elsewhere.

In addition, Judge does not disclose administering a context management system by configuring a subject data definition. Rather, a context is formed via applications registering for particular events, so that the nature of the shared context depends upon which events applications have registered for. (col. 1, lines 44-54). Thus, Judge simply does not teach or suggest configuring a subject data definition.

In view of the foregoing, it is respectfully asserted that each of the claims patentably distinguishes over any combination of Gopal and Judge, such that the rejection of all of the claims under §103 as purportedly being obvious over this combination of references should be withdrawn.

Request for Interview

As the undersigned has on several occasions informed the Examiners, the Applicants are interested in expediting allowance of the application, and working with the Examiners to find allowable subject matter. During the telephone interview, the Examiners indicated that they were optimistic about reaching agreement on the patentability of at least some subject matter described in the present application. The Examiners indicated that they would take the matter under advisement and be in touch with the undersigned prior to the date for filing this response to see whether agreement could be reached. Unfortunately, that did not occur, and despite contact being initiated by the undersigned, no further substantive discussion was held concerning any allowable subject matter.

In view of the importance of this application, if the Examiners do not agree that there is allowable subject matter recited herein, the undersigned requests the granting of an interview before issuance of a new office action. The client is considering having an in person interview, and the undersigned will be contacting the Examiner to discuss the same.

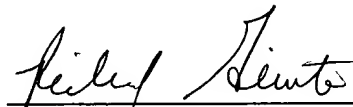
CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if the Examiner does not believe that this communication places the case in condition for allowance, to discuss any outstanding issues relating to the allowability of the application.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
Robert Seliger et al., Applicant(s)

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Docket No.: S1389.70008US00
Date: March 2, 2005
x03/02/05x